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June 13, 1997

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Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

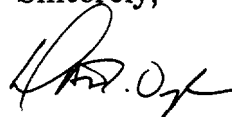
Re: MM Docket No. 87-268
Advanced Television Systems And
Their Impact Upon the Existing
Television Broadcast Service

Dear Mr. Caton:

Transmitted herewith, on behalf of JDG Television, Inc., is an original and four copies of its Petition for Reconsideration and/or Clarification Regarding DTV Table of Allotments in the above referenced Docket.

Should there be any questions, please communicate with the undersigned.

Sincerely,



David A. Vaughan

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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*Federal Communications Commission
Office of Secretary*

In the Matter of

Advanced Television Systems
and Their Impact Upon the
Existing Television Broadcast
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MM Docket No. 87-268

**PETITION FOR RECONSIDERATION
AND/OR CLARIFICATION REGARDING
DTV TABLE OF ALLOTMENTS**

June 13, 1997

JDG Television, Inc.

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Its Attorneys

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Advanced Television Systems
and Their Impact Upon the
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MM Docket No. 87-268

To: The Commission

**PETITION FOR RECONSIDERATION
AND/OR CLARIFICATION REGARDING
DTV TABLE OF ALLOTMENTS**

JDG Television, Inc. ("JDG"), through its attorneys, hereby petitions *inter alia* for reconsideration and/or clarification of the *Sixth Report and Order* (adopted: April 3, 1997), 62 Fed. Reg. 26684 (May 14, 1997). In the *Sixth Report & Order*, the Commission adopted a Table of Allotments for digital television ("DTV"), rules of initial DTV allotments, procedures for assigning DTV frequencies, and plans for spectrum recovery.

JDG understands that Capitol Broadcasting Co., Inc. is submitting a Petition for Reconsideration and/or Clarification Regarding DTV Table of Allotments and Any Presumption Concerning Channels 2-6 ("Capitol Petition"). JDG supports that portion of the Capitol Petition that requests clarification or reconsideration with respect to "eligible existing broadcasters" whose present assigned NSTC channel and its DTV transition channel are not within the "final DTV core spectrum." JDG hereby incorporates such portions of the Capitol Petition herein.

JDG has also joined in the Petition for Clarification and Partial Reconsideration of the Fifth and Sixth Reports and Orders Submitted by the Association For Maximum Service

Television, Inc. and Other Broadcasters ("Maximum Service et als. Petition") which JDG incorporates by reference herein. JDG files this separate Petition to address two issues not addressed in the Maximum Service et als. Petition. JDG believes this separate petition will bring to the Commission's attention a problem with particular assignments of transition DTV channels by the Sixth Report & Order.

JDG is the licensee of KPOM-TV, NTSC channel 24 in Ft. Smith, Arkansas and of KFAA-TV, NTSC channel 51 in Rogers, Arkansas. Both stations are "eligible existing broadcasters" within the meaning of the Sixth Report & Order. The transition DTV channel allotted to KPOM is channel 17 and the transition DTV channel allotted to KFAA is channel 50. See DTV Table of Allotments, Appendix B, Sixth Report & Order.

**THE DTV ALLOTMENTS TO KPOM AND KFAA RAISE
SIGNIFICANT QUESTIONS WHETHER THESE
STATIONS WILL BE ABLE TO SERVE THEIR MARKETS**

The primary allotment objective in developing the DTV Table was to provide a channel for all "eligible existing broadcasters."¹ Sixth Report & Order, paras. 1, 8 & 11. The Commission rejected the idea that all eligible existing broadcasters should not receive a DTV allotment. Id., para. 11. The Commission also concluded that "[p]roviding DTV allotments that replicate the service areas of existing stations offers important benefits for both viewers and broadcasters. This approach will ensure that broadcasters have the ability to reach the audiences that they now serve and that viewers have access to the stations that they can now receive over-the air." Id., para. 29.

¹ "Eligible existing broadcasters" is limited with respect to "initial eligibility for DTV licenses to 'persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station or both.'" Id., para. 8 (footnote omitted).

The DTV allotments made to KPOM and KFAA raise significant questions that indicate that these stations will not be able to reach the audiences they currently serve. For example, the KPOM allotment of DTV transition channel 17 is limited to a maximum of 73.4 Kw ERP. Using the Commission's new directional antenna pattern for DTV allotments changes the maximum-to-minimum field ratio from 11.7 Db for KPOM's NTSC facility using its current directional antenna to 16.1 Db for the DTV allotment. This will require KPOM to operate with a maximum DTV power of 1.8 Kw if it uses an omni-directional antenna. If KPOM uses an antenna having the same directional characteristics as its present NTSC antenna, KPOM will be required to reduce its maximum DTV ERP to 21 Kw. See attached Engineering Statement of John F.X. Browne, P.E. (June 12, 1997) ("Browne Engineering Statement").

There is no practical antenna design that would replicate the antenna characteristics developed by the Commission. For this reason, KPOM can not employ the power listed in the Table. Moreover, KPOM would incur significant adjacent-power interference and loss of service because DTV transition channel 18 has been allotted to KFSM also serving the Ft. Smith market. Browne Engineering Statement.

A "maximization" study to explore the possibility of increasing power on the KPOM DTV allotment indicated at least seven interference cases which effectively preclude any power increase on that channel. Id. The necessary power reductions to comply with directional antenna constraints will serve only to increase the power differential between KPOM and KFSM (1,000kW), placing KPOM at a competitive disadvantage. Id.

KFAA-TV faces similar problems. *Id.* KFAA operates its NTSC station (channel 51) using an omni-directional antenna. KFAA has been allotted channel 50 at an ERP of 50 Kw. Using an omni-directional antenna, KFAA would be forced to reduce its DTV channel power to 42 Kw, a reduction of 0.75 Db, because of the DTV replication process used by the Commission. In this case, a "maximization" study identified five cases of interference. Any increase in power in significant azimuths would therefore be very problematic. *Id.*

Unless these problems are satisfactorily resolved, neither KPOM nor KFAA will be able to serve their existing markets and the Commission will have fallen short of its objective of providing a DTV channel to all "eligible existing broadcasters." JDG therefore requests that the Commission reconsider the transition DTV assignments of KPOM and KFAA in order to assure that these stations will have the ability to fully serve their markets during and following the DTV transition.²

DTV TABLE OF ALLOTMENTS

The Capitol Petition points out the need to clarify or reconsider the Sixth Report & Order because the "final DTV core spectrum" may exclude both the NTSC channel and the DTV transition channel of an "eligible existing broadcaster." The DTV Table of Allotments during the transition³ to DTV is based upon channels 2-51. If the Commission concludes

² JDG will continue to study these issues and will supplement its submissions to the Commission to update its findings and to seek to resolve them with the Commission. Bulletin 69 is not yet available and additional studies must await its release.

³ The Table of DTV Allotments issued with the Sixth Report & Order is intended to meet DTV spectrum needs during the transition; facilitate the early recovery of spectrum from channels 60 to 69; and facilitate the recovery of 138 Mhz of spectrum being used for analog broadcasting.

that channels 2-6 are suitable for DTV, the Commission will consider retaining these channels for DTV and adjusting the final DTV core spectrum to encompass channels 2-46 rather than channels 7-51. In that event, neither NTSC channel 50 nor DTV transition channel 51 assigned to KFAA will be in the final DTV core spectrum. In this eventuality, the Commission has stated that "[s]tations, with both NTSC and DTV channels outside the core spectrum, will be assigned new channels within the core from recovered spectrum." Sixth Report & Order, para. 84.⁴ See also *Id.*, para. 36.

JDG, accordingly, agrees with Capitol that the Commission must take steps during the transition to assign a DTV channel to eligible existing broadcasters whose DTV transition channel and existing NTSC channel are outside the final DTV core spectrum even if LPTV or TV translator stations,⁵ other non-eligible broadcasters,⁶ or new entrants must be displaced. In making such DTV reassignments, the Commission should replicate the broadcaster's NTSC service area to the maximum extent. Further, stations such as KFAA

Sixth Report & Order, para. 76.

⁴ The Commission noted that there are 68 instances in the current Table where both channels are outside of channels 7-51 and 89 instances where both channels are outside of channels 2-46. *Id.*, para. 84.

⁵ During the DTV transition, new and displaced LPTV and TV translator stations may operate over unused spectrum. *Id.*, para. 95. Other non-eligible broadcasters will also be allowed to convert their existing NTSC operations to DTV service at any time during the transition, provided those operations are within the core spectrum area. *Id.*, para. 95.

⁶ "Other non-eligible broadcasters" includes persons which at the time of "initial eligibility for DTV licenses" were not licensed to operate a television broadcast station and/or did not hold a permit to construct such a station. See *Id.*, para. 8. The DTV Table, however, "accommodates more than 100 new NTSC stations and provides DTV allotments for these stations." *Id.*, par. 78. To the extent that any of these 100 new stations were not "eligible existing broadcasters," they should not be ranked ahead of or equal to "eligible existing broadcasters" which do not have a NTSC or DTV transition channel in the final DTV core spectrum. Presumably, such new stations are "other non-eligible broadcasters" or new entrants.

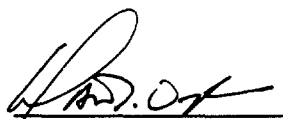
should be entitled to receive compensation out of auction funds for their second DTV transition.

CONCLUSION

Wherefore, JDG respectfully requests that the Commission (1) reconsider the transition DTV assignments of KPOM and KFAA in order to assure that each of those stations will have the ability to fully serve their markets during the DTV transition and thereafter; (2) clarify or reconsider that, in the event an "eligible existing broadcaster" does not have a NTSC channel or a DTV transition channel within the final DTV core spectrum, the Commission will assign such broadcaster a channel within the final DTV core spectrum even if it is necessary to displace an existing LPTV or TV translator station, other non-eligible broadcaster, or new entrant; that the reassigned DTV channel will replicate the broadcaster's NTSC channel to the maximum extent; and that the broadcaster shall be compensated for its second transition to DTV out of auction proceeds; and, (3) grant the relief requested in the Maximum Service et als. Petition.

Respectfully submitted,

JDG TELEVISION, INC.



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David A. Vaughan

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Tel: 202-457-5921

June 13, 1997

Its Counsel



ENGINEERING STATEMENT

of

John F.X. Browne, P.E.

re

KPOM-TV – Ft. Smith, AR

and

KFAA-TV, Rogers, AR

JDG Television Inc. is the licensee of KPOM-TV, Ft. Smith, AR, and KFAA-TV, Rogers, AR. In its Sixth Report & Order (MM Docket 87-268) the Commission allotted Channel 17 to KPOM and Channel 50 to KFAA for their DTV services. This engineering statement addresses some issues and concerns regarding those allotments.

KPOM-TV

The KPOM-DTV allotment on Channel 17 is limited to a maximum of 73.4 kW ERP. KPOM presently operates its NTSC facility with a directional antenna tailored to suit its perceived market service requirements at the time of the original construction. This antenna has a maximum-to-minimum field ratio of 11.7 dB. The Commission, in its replication process, developed a new directional antenna pattern for all DTV allotments; in the case of KPOM, the new pattern has a maximum-to-minimum ratio of 16.1 dB. The net effect of this is to:

- require that KPOM operate with a maximum DTV power of 1.8 kW if an omni-directional antenna is employed
- require that KPOM reduce its maximum DTV ERP to approximately 21 kW if it employs an antenna having the same directional characteristics as the present NTSC antenna

The only way^{1/} that KPOM could employ the power listed in the Table would be if it used a directional antenna precisely following the antenna characteristics developed by the Commission in its replication process; this is not a practical antenna design that any manufacturer could achieve.

Additionally, the Commission has assigned Channel 18 as the DTV allotment to KFSM, another station serving the Ft. Smith market. These facilities are separated by 30 km; while the Commission's criteria would permit such non-colocated channel adjacencies, it is clear that this condition coupled with the high power level of KFSM-DTV (1,000 kW) and the relatively low power levels permitted to KPOM (as described above) will create significant adjacent-channel interference and loss of service for KPOM-DTV.

A "maximization" study was conducted to determine whether any possibility exists for increasing power on the KPOM DTV allotment. There are not less than seven interference cases existing with the present allotment (3 NTSC, 4DTV) which effectively preclude any power increase on this channel.

KFAA-TV

KFAA presently operates on Channel 51 and has been allotted Channel 50 for DTV service at an ERP of 50 kW. The station presently employs an omni-directional antenna but would have to reduce its DTV power to 42 kW (if omni-directional), a reduction of 0.75 dB, because of the Commission's DTV replication process described above.

^{1/} The unavailability of OET-69 makes it impossible to confidently assess the interference that might be created by exceeding the "reference ERP" values created by the Commission. Alternative methodologies do predict several interference cases which effectively limit the power in those azimuths.

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An interference study was conducted to determine whether KFAA-DTV could be "maximized". Five cases of interference (2 NTSC, 3 DTV) were identified given the allotment parameters. Therefore, any increase in power in significant azimuths would be very problematic. This facility may already be "maximized" at 50 kW ERP.

Conclusion

The DTV allotments made to KPOM and KFAA are very limited; this raises considerable question about the ability of these stations to serve their respective markets. In the case of KPOM, the power reductions that may be necessary to comply with directional antenna constraints further exacerbate the power differential between KPOM and KFSM (1,000 kW), placing KPOM at an apparent competitive disadvantage.

When OET-69 becomes available, JDG Television Inc. should restudy their situations looking towards obtaining different channel allotments and/or determining whether any power increases will be possible.

Certification

This statement was prepared by me or under my direction. All assertions contained in the statement are true of my own personal knowledge except where otherwise indicated and these latter assertions are believed to be true.

A handwritten signature in black ink, appearing to read "John F.X. Browne", is written over a horizontal line.

John F.X. Browne, P.E.
June 12, 1997